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THE PLANNING ACT

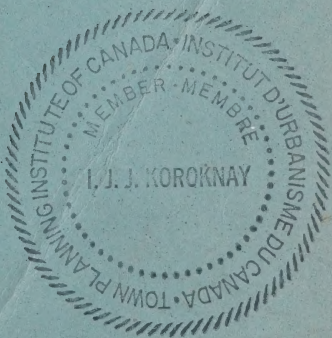
Revised Statutes of Ontario, 1960

CHAPTER 296

as amended by

1960-61, Chapter 76; 1961-62, Chapter 104,
and 1962-63, Chapter 105

1963



TORONTO

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OFFICE CONSOLIDATION

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STATUTES



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The Planning Act

R.S.O. 1960, CHAPTER 296

as amended by

1960-61, Chapter 76; 1961-62, Chapter 104,
and 1962-63, Chapter 105

1. In this Act,

Inter-
pre-
tation

- (a) "council" means the council of a municipality or the board of trustees of an improvement district;
- (b) "designated municipality" means the municipality named by the Minister under subsection 6 of section 2 in the case of a joint planning area or the municipality in the case of a planning area consisting of one municipality or of one municipality and territory without municipal organization;
- (c) "joint planning area" means a planning area consisting of more than one municipality or part or parts thereof;
- (d) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;
- (e) "Minister" means the Minister of Municipal Affairs;
- (f) "Municipal Board" means the Ontario Municipal Board;
- (g) "municipality" means a city, town, village, township or improvement district;
- (h) "official plan" means a programme and policy, or any part thereof, covering a planning area or any part thereof, designed to secure the health, safety, convenience or welfare of the inhabitants of the area, and consisting of the texts and maps, describing such programme and policy, approved by the Minister from time to time as provided in this Act;

- (i) "planning area" means a planning area defined by the Minister under this Act, and includes a joint planning area and a subsidiary planning area;
- (j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of a council or of a local board. R.S.O. 1960, c. 296, s. 1.

PART I

OFFICIAL PLANS

Establishment of planning areas

2.—(1) The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a planning area.

Constitution of area

(2) The planning area shall consist of part or all of one municipality or of such municipalities or parts of municipalities as in the opinion of the Minister constitute a complete planning unit having regard to the purposes for which the planning area is defined, and the Minister may include in the planning area any territory without municipal organization that adjoins a municipality or part of a municipality included in the planning area.

Planning area in unorganized territory

(3) The Minister may define and name a planning area consisting of territory without municipal organization and may appoint a planning board for the planning area.

Subsidiary planning areas

(4) The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a subsidiary planning area consisting in whole or in part of land that is within one or more planning areas, and may define the scope and general purpose of the official plan of the subsidiary planning area and the functions of the planning board thereof.

Planning area included in joint planning area to be subsidiary planning area

(5) When a planning area, other than a joint planning area, or any part thereof is included in a joint planning area, the planning area or part thereof so included is thereby a subsidiary planning area.

Designated municipality

(6) In the case of a joint planning area, the Minister shall name the municipality that shall be the designated municipality for the purposes of this Part, and may define the scope and general purpose of the official plan of the planning area and the functions of the planning board thereof.

(7) In defining the scope and general purpose of an official plan, the Minister shall have regard among other matters to be regarded the requirements of the planning area for drainage, land uses, communications and public services.

official plan

(8) The Minister may dissolve or alter the boundaries of a planning area, but where an official plan is in effect in the planning area it remains in effect, notwithstanding the dissolution or alteration, until altered in accordance with this Part. R.S.O. 1960, c. 296, s. 2.

(9) (1961-62, c. 104, s. 1) REPEALED: 1962-63, c. 105, s. 1.

3.—(1) The council of the designated municipality shall appoint the planning board of a planning area, and every appointment to the planning board of a joint planning area is subject to the approval of the Minister.

Appointment of planning board

Planning Board

(2) Where a planning area consists of part or all of one municipality and territory without municipal organization, every appointment to the planning board of the planning area is subject to the approval of the Minister. R.S.O. 1960, c. 296, s. 3.

Where unorganized territory

4.—(1) A planning board is a body corporate by the name of Board' (inserting the name designated by the Minister) and shall consist of,

Composition of planning boards

- (a) where the planning area consists of part or all of one municipality or of part or all of one municipality and territory without municipal organization, the head of the council of the municipality as a member ex officio; or
- (b) in the case of a joint planning area, the head of the council of the designated municipality as a member ex officio,

and four, six or eight members who are not employees of a municipality or of a local board.

(2) In subsection 1, "employees" does not include teachers employed by a board of education or school board.

Interpretation

(3) The members of a planning board who are members of a municipal council shall not constitute a majority of the members of the planning board.

Idem

(4) The head of a council who is ex officio a member of the planning board, with the approval of the council, may appoint a substitute, who is a member of the council, to act for him from time to time.

Substitute for head of council

(5) The members of the planning board who are not members of a municipal council shall hold office for three years,

Term of office

provided that on the first appointment the council of the designated municipality, from among such members, shall designate members who shall hold office,

- (a) until the 1st day of January of the year following the date of appointment;
- (b) until the 1st day of January of the second year following the date of appointment; and
- (c) until the 1st day of January of the third year following the date of appointment,

respectively, so that as nearly as possible one-third of such members shall retire each year; and the members of the planning board who are members of a council shall be appointed annually.

Re-
appointment

(6) The members of the planning board shall hold office until their successors are appointed and such appointments are approved, where approval thereof is required, and are eligible for re-appointment.

Vacancies

(7) Where a member ceases to be a member of the planning board before the expiration of his term, the council of the designated municipality shall appoint another eligible person for the unexpired portion of the term.

Quorum

(8) A majority of the members of a planning board constitutes a quorum.

Officers

(9) The planning board shall elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

Secretary-
treasurer,
employees,
consultants

(10) The planning board shall appoint a secretary-treasurer, who may be a member of the planning board, and may engage such employees and consultants as is deemed expedient. R.S.O. 1960, c. 296, s. 4.

Special
provisions

5. Notwithstanding any other provision in this Act, the Minister may, in order to suit the special needs of any planning area, vary the constitution of the planning board, the procedures by which it is appointed, the term of office of its members, and the manner in which it is to function, and designate the functions of the planning board within the scope of section 10, and may make special provisions relating to the recommendation, adoption and approval of the official plan of the planning area. R.S.O. 1960, c. 296, s. 5.

Execution
of docu-
ments

6. The execution of documents by the planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the planning board. R.S.O. 1960, c. 296, s. 6.

7. (1) Where a planning area consists of part or all of one municipality or of part or all of one municipality and territory without municipal organization, the planning board shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time. Finances

(2) In the case of a joint planning area, the planning board shall submit its estimates to the council of each municipality included in the planning area, and shall submit with the estimates a statement as to the proportion thereof to be chargeable to each of the municipalities. Estimates

(3) If the estimates are approved, or are amended and approved, by the councils of municipalities in the planning area representing more than one-half of the population of the planning area, the estimates are binding on all the municipalities in the planning area. Approval

(4) After the estimates have been approved as provided in subsection 3, the planning board shall so notify each municipality in the planning area, and shall notify each municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection 2. Notice

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection 4, notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Municipal Board. Where apportionment unsatisfactory

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final. Power of Municipal Board

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection 4 or by the Municipal Board under subsection 6, as the case may be. Payments

(8) Where all of the municipalities that form a county for municipal purposes or a majority of the municipalities in a county that form part of the county for municipal purposes are included in one planning area, the Minister may authorize the council of the county to act on behalf of such municipalities for the purposes of this section. County acting on behalf of municipalities

(9) Where a county is chargeable under subsection 8, it shall recover its payments as part of the county rates from Recovery by county

R.S.O. 1960,
c. 23

the municipalities on behalf of which it acts in the manner provided in section 98 of *The Assessment Act*. R.S.O. 1960, c. 296, s. 7.

Remunera-
tion for
members
of planning
boards

7a. A planning board may provide for the payment of salaries, expenses or allowances for the members thereof and shall include its financial requirement therefor in its estimates under section 7. 1961-62, c. 104, s. 2.

Grants,
municipal

8.—(1) Any municipality within or partly within a planning area may make grants of money to the planning board.

county

(2) The county in which a planning area or part thereof is situate may make grants of money to the planning board. R.S.O. 1960, c. 296, s. 8.

Audit of
planning
board's
accounts
R.S.O. 1960,
c. 249

9. Notwithstanding subsection 2 of section 228 of *The Municipal Act*, in the case of a joint planning area the accounts and transactions of the planning board shall be audited by an auditor of the designated municipality. R.S.O. 1960, c. 296, s. 9.

Duties of
planning
boards

10.—(1) Every planning board shall investigate and survey the physical, social and economic conditions in relation to the development of the planning area and may perform such other duties of a planning nature as may be referred to it by any council having jurisdiction in the planning area, and without limiting the generality of the foregoing it shall,

- (a) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of the planning area;
- (b) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the planning area in determining the solution of problems or matters affecting the development of the planning area;
- (c) consult with any local board having jurisdiction within the planning area;
- (d) prepare a plan for the planning area suitable for adoption as the official plan thereof and forward it to the councils of the municipalities affected thereby, and recommend such plan to the council of the designated municipality for adoption;
- (e) recommend from time to time to the councils of the municipalities in the planning area the implementation of any of the features of the official plan of the planning area;

*Duties of
a Pl. Board*

- (f) review the official plan from time to time and recommend amendments thereto to the council of the designated municipality for adoption.

(2) No plan shall be recommended for adoption unless it is ^{Recommendation of plan} approved by a vote of the majority of all the members of the planning board. R.S.O. 1960, c. 296, s. 10.

11.—(1) The plan as finally prepared and recommended by the planning board shall be submitted to the council of the designated municipality.

Plan to be submitted to council

Official plan

(2) The council of the designated municipality may adopt the plan by by-law.

Adoption of plan

(3) In the case of a joint planning area, the council of any other municipality within or partly within the planning area may adopt the plan by by-law,

Adoption by other municipality

- (a) after the expiration of ninety days from the day that the plan was recommended to the council of the designated municipality by the planning board, if the council of the designated municipality has not in the meantime adopted the plan; or

- (b) within such period of ninety days if the council of the designated municipality by resolution consents thereto. R.S.O. 1960, c. 296, s. 11.

12.—(1) Upon adoption, the plan shall be submitted by the council that adopted it to the Minister who may refer the plan to any department of the public service of Ontario that may be concerned therewith and to The Hydro-Electric Power Commission of Ontario, and, in the case of a joint planning area, the Minister shall refer the plan to the council of every municipality in the planning area that the Minister considers is affected by the plan, and if modifications appear desirable, the Minister shall settle such modifications as far as possible to the satisfaction of all concerned and cause the plan to be amended accordingly.

Plan to be submitted to Minister

(2) The Minister may then approve the plan, whereupon it ^{Approval by Minister} is the official plan of the planning area. R.S.O. 1960, c. 296, s. 12.

13.—(1) At least two, or as many as may be required, certified copies of the official plan shall be lodged by the clerk of the designated municipality in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister within the planning area, and the copies shall be available at such places for public inspection during office hours. R.S.O. 1960, c. 296, s. 13 (1); 1962-63, c. 105, s. 2 (1).

Lodging of official plan

(2) A duplicate original of the official plan shall be lodged ^{Idem} by the clerk of the designated municipality in every registry

office of lands within the planning area, where it shall be made available to the public as a production. R.S.O. 1960, c. 296, s. 13 (2); 1962-63, c. 105, s. 2 (2).

Amendments
and repeal

14.—(1) The provisions of this Act with respect to an official plan apply *mutatis mutandis* to amendments thereto, or the repeal thereof, provided that the Minister may, subject to subsection 2, approve any amendment or repeal that may be proposed by the council of any municipality. R.S.O. 1960, c. 296, s. 14 (1); 1961-62, c. 104, s. 3 (1).

Conditions
for
Minister's
approval

(2) Before approving an amendment or repeal initiated by a council, the Minister may require that a report of the planning board be obtained in respect of the proposal and if the planning board does not concur in the proposal the Minister shall not approve the amendment or repeal unless it has been adopted by a vote of two-thirds of all the members of the council. R.S.O. 1960, c. 296, s. 14 (2); 1961-62, c. 104, s. 3 (2).

Application
for
amendment

(3) Where any person requests the council to initiate an amendment to the official plan and the council,

(a) refuses to propose the amendment; or

(b) fails to propose the amendment within thirty days from the receipt of the request,

such person may request the Minister to refer the proposal to the Municipal Board.

Reference to
Municipal
Board

(4) Upon receipt of the request, the Minister may require a report on the proposal from the planning board and may refer the proposal to any public authority that may be concerned therewith and he may refuse the request or refer the proposal to the Municipal Board.

Disposal of
reference

(5) When a proposal is referred to the Municipal Board under subsection 4, the Municipal Board may reject the proposal or direct that the council cause the amendment to be made in the manner provided in the order. R.S.O. 1960, c. 296, s. 14 (3-5).

Public works
and by-laws
to conform
with plan

15.—(1) Notwithstanding any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections 2 and 3, no by-law shall be passed for any purpose that does not conform therewith.

Validity of
by-laws
conforming
to amend-
ments to
official plans

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and such by-law shall be deemed to be valid and

to have come into force on the day it was passed if the Minister approves the amendment to the official plan and if the Municipal Board subsequently approves the by-law, where such approval of the by-law is required.

(3) The Municipal Board, upon the application of the council of a municipality for which an official plan is in effect, may by its order declare that a by-law of such municipality shall be deemed to conform with the official plan, if the Municipal Board is of opinion that the by-law conforms with the general intent and purpose of the official plan.

Municipal Board may approve by-law

(4) The procedure upon an application to the Municipal Board under subsection 3 shall be the same as nearly as may be as in the case of an application to the Municipal Board under section 30. R.S.O. 1960, c. 296, s. 15.

Procedure

16. A by-law that conforms with an official plan shall be deemed to implement the official plan whether the by-law is passed before or after the official plan is approved. R.S.O. 1960, c. 296, s. 16.

By-laws implementing plans

17. REPEALED: 1961-62, c. 104, s. 4. [See now section 32a.]

18. REPEALED: 1961-62, c. 104, s. 4. [See now section 32b.]

19.—(1) For the purpose of developing any feature of the official plan, a municipality, with the approval of the Minister may at any time and from time to time,

Acquisition of lands for official plan purposes

- (a) acquire land within the municipality;
- (b) hold land heretofore or hereafter acquired within the municipality; or
- (c) sell, lease or otherwise dispose of land so acquired or held when no longer required.

(2) For the purpose of developing any feature of the official plan, the designated municipality in the case of a joint planning area, with the approval of the Minister, may exercise any of the powers mentioned in subsection 1 in respect of land within the planning area. R.S.O. 1960, c. 296, s. 19 (1, 2).

Powers of designated municipality

(3) REPEALED: 1962-63, c. 105, s. 3.

(4) Any county or municipality may contribute towards the cost of acquiring land under this section. R.S.O. 1960, c. 296, s. 19 (4).

Contributions to cost

20.—(1) In this section,

- (a) "redevelopment" means the planning or replanning,

Interpretation

Redevelopment

design or redesign, resubdivision, clearance, development, reconstruction and rehabilitation, or any of them, of a redevelopment area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;

- (b) "redevelopment area" means an area within a municipality, the redevelopment of which in the opinion of the council is desirable because of age, dilapidation, over-crowding, faulty arrangement, unsuitability of buildings or for any other reason;
- (c) "redevelopment plan" means a general scheme, including supporting maps and texts, approved by the Municipal Board for the redevelopment of a redevelopment area. R.S.O. 1960, c. 296, s. 20 (1).

Designation
of re-
development
area

(2) The council of a municipality that has an official plan in respect of land use may, with the approval of the Minister, by by-law designate the whole or any part of an area covered by such an official plan as a redevelopment area, and the redevelopment area shall not be altered or dissolved without the approval of the Minister. 1962-63, c. 105, s. 4.

Acquisition
and
clearance
of land

(3) When a by-law has been passed and approved under subsection 2, the municipality, with the approval of the Minister, may,

- (a) acquire land within the redevelopment area;
- (b) hold land acquired before or after the passing of the by-law within the redevelopment area; and
- (c) clear, grade or otherwise prepare the land for re-development.

Withdrawal
of
Minister's
approvals

(4) If, at any time before a redevelopment plan for the redevelopment area has been approved by the Municipal Board, the Minister is not satisfied with the progress made by the municipality in acquiring land within the redevelopment area or in preparing a redevelopment plan, he may withdraw his approvals under subsections 2 and 3 and thereupon the by-law designating the redevelopment area ceases to have effect and the redevelopment area ceases to exist.

Adoption
of re-
develop-
ment plan

(5) When a by-law has been passed and approved under subsection 2, the council, with the approval of the Municipal Board, may by by-law adopt a redevelopment plan for the redevelopment area.

(6) No redevelopment plan shall be approved by the Municipal Board unless it conforms with the official plan. Conformity to official plan

(7) A redevelopment plan adopted and approved under subsection 5 may be amended by by-law with the approval of the Municipal Board. Amendment

(8) For the purpose of carrying out the redevelopment plan, the municipality, with the approval of the Minister, may, Powers of council re land

(a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the redevelopment area in conformity with the redevelopment plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

(b) sell, lease or otherwise dispose of any land acquired or held by it in the redevelopment area to any person or governmental authority for use in conformity with the redevelopment plan.

(9) Until a by-law or amending by-law passed under section 30 after the adoption of the redevelopment plan is in force in the redevelopment area, no land acquired, and no building constructed, by the municipality in the redevelopment area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of agrees with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the redevelopment plan until such a by-law or amending by-law is in force; but the municipality may, with the approval of the Minister, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the redevelopment plan, for a term of not more than three years at any one time. Conditions of sale, etc.

(10) Notwithstanding subsection 1 of section 282 of *The Municipal Act*, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides. R.S.O. 1960, c. 296, s. 20 (3-10). Debentures R.S.O. 1960, c. 249

21. A municipality, with the approval of the Minister, may enter into an agreement with any governmental authority, or any agency thereof created by statute, for the carrying out of studies relating to the physical condition of the municipality or any part thereof. R.S.O. 1960, c. 296, s. 21. Agreements re special studies

22. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such Agreements for grants in aid of redevelopment

Provincial Grant for Redevelopment

terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the re-development of a redevelopment area as defined in section 20. R.S.O. 1960, c. 296, s. 22.

R.S.O. 1960,
c. 249,
to apply

23. The provisions of *The Municipal Act* apply to the acquisition of land under this Act. R.S.O. 1960, c. 296, s. 23.

Power to
clear, grade,
etc., lands
acquired

24. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held. R.S.O. 1960, c. 296, s. 24.

Exchange
of lands

25. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality. R.S.O. 1960, c. 296, s. 25.

Interpre-
tation

25a. For the purposes of this Part, "municipality" includes a county. 1962-63, c. 105, s. 5.

PART II

SUBDIVISIONS

Areas of
subdivision
control

26.—(1) The council of a municipality may by by-law designate any area within the municipality as an area of subdivision control and thereafter no person shall convey land in the area by way of a deed or transfer on any sale, or mortgage or charge land in the area, or enter into an agreement of sale and purchase of land in the area or enter into any agreement that has the effect of granting the use of or right in land in the area directly or by entitlement to renewal for a period of twenty-one years or more unless,

- (a) the land is described in accordance with and is within a registered plan of subdivision; or
- (b) the grantor, mortgagor or vendor does not retain the fee or the equity of redemption in any land abutting the land that is being conveyed or otherwise dealt with; or
- (c) the land is ten acres or more in area and the land remaining in the grantor, mortgagor or vendor abutting on the land conveyed or otherwise dealt with is also ten acres or more in area; or

*Subdivision
Control*

- (d) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality or county;
or
- (e) the consent,
- (i) of the planning board of the planning area in which the land lies, or
 - (ii) where the land lies in more than one planning area, of the planning board designated by the Minister from time to time, or
 - (iii) where there is no planning board, of the Minister,

is given to the conveyance, mortgage, charge or agreement.

(2) The council may in the by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection 1.

Designation
of plans of
subdivision
not deemed
registered

(3) The council of a municipality may by by-law provide that this subsection applies to land in the municipality that is within a plan of subdivision registered before or after the passing of the by-law, or is within such registered plan or plans of subdivision, or part or parts thereof, as is or are designated in the by-law, and thereafter no person shall convey a part of any lot or block of the land by way of a deed or transfer on any sale, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

Part-lot
control

- (a) the grantor, mortgagor or vendor does not retain the fee or the equity of redemption in any land abutting the part of the lot or block that is being conveyed or otherwise dealt with; or
- (b) the part of the lot or block or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality or county; or

(c) the consent,

- (i) of the planning board of the planning area in which the land lies, or
- (ii) where the land lies in more than one planning area, of the planning board designated by the Minister from time to time, or
- (iii) where there is no planning board, of the Minister.

is given to the conveyance, mortgage, charge or agreement. 1960-61, c. 76, s. 1 (1), *part.*

Consent to
lapse after
six months

(3a) Any consent hereafter granted under subsection 1 or 3 shall lapse at the expiration of six months after the date upon which the consent was granted unless within such period the land in respect of which the consent was granted was sold, mortgaged or charged or an agreement was entered into for the sale or purchase of such land or that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more. 1962-63, c. 105, s. 6.

Conveyance
contrary to
section not
to convey
interest in
land

(4) An agreement, conveyance, mortgage or charge made in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into, subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with.

When
by-law
effective

(5) A by-law passed under this section is not effective until the requirements of subsections 6 to 11 have been complied with.

Copies of
by-law to
be lodged
with
Minister

(6) Two certified copies of every by-law passed under this section shall be lodged by the clerk of the municipality in the office of the Minister, where they shall be available for public inspection during office hours.

Registration,
under
R.S.O. 1960,
c. 348

(7) A certified copy of every by-law passed under this section affecting land under *The Registry Act* shall be registered by the clerk of the municipality in the proper registry office, where it shall be made available to the public as a production.

under
R.S.O. 1960,
c. 204

(8) A certified copy of every by-law passed under subsection 1 affecting land under *The Land Titles Act* shall be deposited by the clerk of the municipality in the proper land titles office, where it shall be made available to the public for inspection.

(9) A certified copy of every by-law passed under subsection 3 or of every by-law containing a provision authorized by subsection 2, and affecting land within a plan of subdivision registered under *The Land Titles Act*, shall be registered by the clerk of the municipality in the proper land titles office against each parcel of land affected by the by-law. ^{Idem}

(10) Where a by-law contains a provision authorized by subsection 2, the clerk of the municipality shall send notice of the passing of the by-law by registered mail to the last known address of each person appearing by the last revised assessment roll to be the owner of land within any registered plan or part thereof to which the provision applies. ^{Notice where plan not deemed registered}

(11) Where a by-law has been passed under subsection 3, the clerk of the municipality shall send notice of the passing of the by-law by mail to the last known address of each person appearing by the last revised assessment roll to be the owner of land to which the by-law applies. ^{Notice where by-law passed under subs. 3}

(12) When an area is designated as an area of subdivision control under subsection 1, it shall not be altered or dissolved without the approval of the Minister. ^{Alteration or dissolution of area}

(13) A planning board and the Minister in determining whether a consent is to be given under this section shall have regard to the matters that are to be had regard to under subsection 4 of section 28 in considering a draft plan of subdivision and may impose such conditions as it or he considers necessary to ensure that such matters are effectively provided for and maintained and, in addition, may require that any or all of such conditions be fulfilled prior to the granting of a consent. ^{Matters to be regarded in determining consent, conditions}

(14) Where, on an application to a planning board for a consent under this section, the consent is refused or is given subject to one or more conditions or where the planning board refuses or neglects to make a decision on the application within sixty days after the receipt by the planning board of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and make such disposition thereof as to it may seem proper, but the Municipal Board does not have power to rescind a consent that has been given by a planning board but may vary or rescind any condition that has been imposed on the granting of a consent. ^{Appeal to Municipal Board}

(15) An agreement, conveyance, mortgage or charge is not in contravention of this section if a consent has been given, although such consent is subject to a condition that has not been complied with at the time such agreement, conveyance, mortgage or charge is made. 1960-61, c. 76, s. 1 (1), *part*. ^{Conveyance not in contravention if consent given}

NOTE. — The contravention (before March 29, 1961) of section 26 (as it was before March 29, 1961) or a predecessor thereof, or of a by-law passed

thereunder, or of an order made under clause *b* of subsection 1 of section 27 or a predecessor thereof, does not have and shall be deemed never to have had the effect of preventing the conveyance or creation of any interest in land, provided that section 1 of *The Planning Amendment Act, 1960-61* does not affect the rights acquired by any person from a judgment or order of any court given or made in any litigation or proceedings commenced on or before the 29th day of March, 1961. See 1960-61, c. 76, s. 1 (2).

By-laws passed under section 26 (as it was before March 29, 1961) or a predecessor thereof before March 29, 1961, are not affected by section 26 above, except as otherwise expressly provided in the preceding paragraph. See 1960-61, c. 76, s. 1 (3).

By-laws passed under section 26 (as it was before March 29, 1961) or a predecessor thereof before March 29, 1961, affecting lands under *The Land Titles Act* shall be deposited or registered, as the case may be, as provided for in subsections 8 and 9 of section 26 above, not later than the 1st day of October, 1961, and thereafter, if not so deposited or registered, they shall be deemed to have been repealed as of that date. See 1960-61, c. 76, s. 1 (4).

Power of
Minister
re zoning
and sub-
division
control

27.—(1) The Minister may by order,

- (a) with respect to any land in Ontario that is not within the scope of a by-law passed under section 30, or a predecessor of such section, exercise any of the powers conferred upon councils by section 30 without the approval of the Municipal Board; and
- (b) with respect to any land in Ontario that is not within an area of subdivision control, exercise the powers conferred upon councils by section 26.

Limitation
of zoning
powers

(2) Where an official plan is in effect, the Minister shall not, with respect to land covered by the official plan, make an order under clause *a* of subsection 1 that does not conform with the official plan. R.S.O. 1960, c. 296, s. 27 (1, 2).

Notice and
registration
of order

(3) The Minister may give notice of any such order in such manner as he deems expedient, and the provisions of subsections 7, 8 and 9 of section 26 apply *mutatis mutandis* to an order made under clause *b* of subsection 1, and the Minister shall cause certified copies of the order to be registered or deposited in accordance with such provisions. R.S.O. 1960, c. 296, s. 27 (3); 1962-63, c. 105, s. 7.

Revocation
or amend-
ment

(4) The Minister may, by order, revoke or amend any order made under subsection 1. R.S.O. 1960, c. 296, s. 27 (4).

Offence

(5) Every person who contravenes an order of the Minister made under clause *a* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1960, c. 296, s. 27 (5); 1960-61, c. 76, s. 2 (1).

Effect of
land use
order

(6) An order of the Minister made under clause *b* of subsection 1 has the same effect as a by-law passed under section 26. 1960-61, c. 76, s. 2 (2).

28.—(1) When land is to be subdivided for the purpose of being sold, conveyed or leased in lots by reference to a registered plan of subdivision, the owner of the land or someone authorized by him in writing shall forward at least eight, or as many as may be required, copies of a draft plan thereof drawn to scale, together with an application for approval, to the Minister.

Application
for approval
of sub-
division
plans

Approval
of Subdivision
Plans

NOTE. — Section 86 (20) of *The Registry Act* and section 161 (1) of *The Land Titles Act* provide that no plan of survey or subdivision to which *The Planning Act* applies shall be registered unless approved under this Act.

(2) The draft plan shall show the boundaries of the land to be subdivided, certified by an Ontario land surveyor, and shall indicate,

What draft
plan to
indicate

- (a) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
- (b) on a small key plan, on a scale of not less than one inch to 1,000 feet, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which the applicant has an interest, and the information specified under clause c;
- (c) every adjoining subdivision and the relationship thereto of the lands proposed to be subdivided, and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;
- (d) the purpose for which the lots are to be used;
- (e) the nature of the existing uses of adjoining land;
- (f) the approximate dimensions and layouts of the proposed lots;
- (g) natural and artificial features such as buildings, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided, and anything within or adjacent to such land that constitutes a fire hazard to the proposed subdivision;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) such contours or elevations as may be required to determine the grade of the highways and the drainage of the land;

- (k) the municipal services available or to be available to the land proposed to be subdivided;
- (l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided.

Minister to confer

(3) The Minister may then confer with officials of municipalities and departments of the public service, commissions, authorities and any others who may be concerned and shall settle a draft plan that, in his opinion, will meet all requirements.

What matters to be regarded

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the future inhabitants and to the following:

- (a) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (b) whether the proposed subdivision is premature or necessary in the public interest; ?
- (c) the suitability of the land for the purposes for which it is to be subdivided;
- (d) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity, and the adequacy thereof;
- (e) the dimensions and shape of the lots;
- (f) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands;
- (g) conservation of natural resources and flood control;
- (h) the adequacy of utilities and municipal services;
- (i) adequacy of school sites;
- (j) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes.

Dedication of land for public and highway purposes

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are advisable and, in particular but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

5%
land

- (a) that land to an amount determined by the Minister but not exceeding 5 per cent of the land included in the plan shall be conveyed to the municipality for public purposes other than highways or, if the land is not in a municipality, shall be dedicated for public purposes other than highways;
- (b) that such highways shall be dedicated as the Minister deems necessary;
- (c) when the subdivision abuts on an existing highway, that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister deems necessary; and
- (d) that the owner of the land enter into one or more agreements with the municipality dealing with such matters as the Minister may consider necessary, including the provision of municipal services.

(6) Every municipality may enter into agreements imposed as a condition to the approval of a plan of subdivision. R.S.O. 1960, c. 296, s. 28 (1-6). Subdivision agreements

(7) Where the owner of the land or the municipality in which the land is situate is not satisfied as to the conditions imposed or to be imposed by the Minister, or any of them, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it, and the decision of the Board in respect of such condition or conditions has the same force and effect as if it were the decision of the Minister. Reference of conditions

(8) The Minister may authorize, in lieu of the conveyance for public purposes other than highways required under subsection 5, the payment to the municipality of a sum of money not exceeding the value of 5 per cent of the land included in the subdivision. 1962-63, c. 105, s. 8 (1).

Cash
payment
in lieu of
conveyance

cash in lieu of land

(9) Land conveyed to a municipality under subsection 5 shall be held and used by the municipality for public purposes, but may be sold with the approval of the Minister. R.S.O. 1960, c. 296, s. 28 (9).

Use and
sale of
land

sale of 5% land

(9a) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park purposes and may pay into the fund provided for in subsection 10 the sum so included in the estimates, and Amounts for park purposes paid into special account

any person may pay any sum into the same fund. 1961-62, c. 104, s. 5 (1).

Special
account

purchase of
land from
special fund
(park land)

R.S.O. 1960,
c. 408

(10) All moneys received by the municipality under subsections 8 and 9a, and all moneys received on the sale of land under subsection 9, less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account and the moneys in such special account shall be expended only for the acquisition, with the approval of the Minister, of land to be held and used by the municipality for public purposes, and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account. R.S.O. 1960, c. 296, s. 28 (10); 1961-62, c. 104, s. 5 (2); 1962-63, c. 105, s. 8 (2).

Approval of
draft plan
by Minister

(11) Upon settlement of the draft plan, the Minister may give his approval thereto, and may in his discretion withdraw his approval or change the conditions of approval at any time prior to his approval of a final plan for registration.

When draft
plan
approved

R.S.O. 1960,
cc. 390, 348,
204

(12) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with *The Surveys Act* and *The Registry Act* or *The Surveys Act* and *The Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor.

Approval
of plan
by Minister

(13) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

Withdrawal
of approval
of plan for
registration

(14) When a final plan for registration is approved by the Minister under subsection 13 and is not registered within one month of the date of approval, the Minister may withdraw his approval and may require that a new application be submitted.

Duplicates
to be
deposited
and sent to
Minister

R.S.O. 1960,
cc. 348, 204

(15) In addition to any requirement under *The Registry Act* or *The Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the registrar or master of titles a duplicate, or when required by the Minister two duplicates, of the plan in the form of linen tracings or transparent linen prints of a type approved by the Minister, and the registrar or master shall endorse thereon a certificate showing the number of the plan and the date

when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

(16) Approval of a plan of subdivision by the Minister ^{Saving} does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act. R.S.O. 1960, c. 296, s. 28 (11-16).

29. Every person who subdivides and offers for sale, ^{Offence re certain land sales} agrees to sell or sells land by a description in accordance with an unregistered plan of subdivision is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1960, c. 296, s. 29.

PART III

RESTRICTED AREA AND BUILDING BY-LAWS

30. (1) By-laws may be passed by the councils of municipalities:

- (1) For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway. ^{Restricted area by-laws} *zoning By-laws*
- (2) For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway. ^{Restricting use of land}
3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land where, by reason of its rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive. ^{Marshy lands}
- (4) For regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy. ^{Construction of buildings and structures}
5. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading ^{Loading space}

or parking facilities on land that is not part of a highway.

Pits and
quarries

6. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof. R.S.O. 1960, c. 296, s. 30 (1); 1962-63, c. 105, s. 9.

Scope of
by-law

- (2) Any by-law passed under this section may prohibit or regulate all or any of the matters mentioned in subsection 1.

Uses for
hazardous
purposes

- (3) Where an official plan is in effect in a municipality or a part thereof, a by-law passed under this section may include a provision that no land, building or structure shall be used in the area covered by the by-law for such commercial or industrial purposes as are likely to create danger to health or danger from fire or explosion and as are specified in the by-law, without the approval in writing,

- (a) of the committee of adjustment constituted under section 32a; or
- (b) where no such committee has been established, of the planning board,

and, where a by-law includes such provision, the committee or board shall give one copy of its written decision upon any application for approval to the applicant and shall file one copy with the clerk of the municipality, and, where the committee or board has refused to grant any such application, it shall, upon the request of the applicant, refer the matter to the Municipal Board, which Board may grant or refuse such approval and its decision is final and binding.

Certificates
of occupancy

- (4) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law. R.S.O. 1960, c. 296, s. 30 (2-4), *amended*.

Use of
maps

- (5) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law, and, upon any application, the Municipal Board may require that land mentioned in the by-law be so defined, and the information shown on such maps shall form part of the by-law to the same extent as if included therein. R.S.O. 1960, c. 296, s. 30 (5); 1961-62, c. 194, s. 6 (1).

Acquisition
and dis-
position of
non-con-
forming
lands

- (6) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the

erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality.

(7) No by-law passed under this section applies,

Excepted
lands and
buildings

- (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or
- (b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure the plans for which have, prior to the day of the passing of the by-law, been approved by the municipal architect or building inspector, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the erection of such building or structure is commenced within two years after the day of the passing of the by-law and such building or structure is completed within a reasonable time after the erection thereof is commenced.

(8) Where the boundary between two local municipalities is a highway and the council of one only of the municipalities, as to lands abutting on the highway, has passed a by-law for any purpose mentioned in subsection 1 and, for three months after request by the council of such municipality, the council of the other municipality neglects or fails to pass or to take effective proceedings to pass a corresponding by-law, the council of the first-mentioned municipality may apply to the Municipal Board for an order, which the Municipal Board has power to make, declaring that after a date to be named in the order the by-law of the first-mentioned municipality shall apply to the lands abutting on both sides of the boundary highway to the same extent in area for the same purpose and as fully and effectually as if all such abutting lands were described in the by-law and were within the first-mentioned municipality, and, if and when such order is made and becomes effective, the by-law shall be construed and may be enforced accordingly.

Restrictions
on boundary
highways

(9) No part of any by-law passed under this section comes into force without the approval of the Municipal Board, and such approval may be for a limited period of time only, and the Board may extend such period from time to time upon application made to it for such purpose. R.S.O. 1960, c. 296, s. 30 (6-9).

Approval by
Municipal
Board

Repeal or amendment

(10) No part of any by-law that repeals or amends a by-law passed under this section or a predecessor of this section and approved by the Municipal Board, except a by-law passed pursuant to an order of the Municipal Board made under subsection 19, comes into force without the approval of the Municipal Board. R.S.O. 1960, c. 296, s. 30 (10); 1961-62, c. 104, s. 6 (2).

Notice of application

(11) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section. R.S.O. 1960, c. 296, s. 30 (11).

Public hearing

(11a) Except as provided in subsections 11b and 11c, the Municipal Board shall, before approving any by-law passed under this section, hold a public hearing for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Municipal Board. 1960-61, c. 76, s. 3, *part*.

Notice to provide for filing of objections

(11b) The Municipal Board may direct that the notice to be given by the council shall state that anyone objecting to the by-law may, within such time from the giving of the notice as may be prescribed by the Municipal Board, file with the clerk his objection to the by-law. 1960-61, c. 76, s. 3, *part*; 1961-62, c. 104, s. 6 (3).

Dispensing with public hearing

(11c) Where notice has been given under subsection 11b, the Municipal Board may, when no notice of objection has been filed with the clerk within the time specified in the notice, approve the by-law without holding a public hearing and, if one or more objections have been filed with the clerk within the time specified in the notice, the Municipal Board shall hold a public hearing unless under all the circumstances affecting the matter the Municipal Board deems the objection or, if more than one, all the objections to be insufficient to require a public hearing. 1960-61, c. 76, s. 3, *part*.

Notice of application when King's Highway or county highway affected

(12) Where a by-law passed under this section applies to land abutting on the King's Highway or on a highway under the jurisdiction of a county council, the council that passed the by-law shall give to the Department of Highways or to the clerk of the county council, as the case may be, notice of its intention to apply to the Municipal Board for approval of the by-law.

Notice of application when lands in adjoining municipality affected

(13) Where a by-law passed under this section applies to land abutting on a boundary between the municipality that passed the by-law and another local municipality, the council that passed the by-law shall give,

(a) to the clerk of the other municipality;

- (b) to the secretary of the planning board, if any, of the other municipality; and
- (c) to each owner of land in the other municipality abutting on the land to which the by-law applies,

notice of its intention to apply to the Municipal Board for approval of the by-law.

(14) Every application to the Municipal Board for approval of a by-law passed under this section shall state whether or not the land affected by the by-law is covered by an official plan. Application to state whether official plan in effect

(15) Where, after an adjournment of the hearing of an application for approval of any by-law passed under this section and prior to the final hearing of the application, the by-law is amended, the Municipal Board may direct that notice of the application for approval of the amended by-law be given in such manner and to such persons as the Municipal Board may direct or may dispense with such notice, and may approve the amended by-law. Amendment of by-law pending approval

(16) The Municipal Board may approve any such by-law in whole or in part and as to the whole or any part of any land, area or highway therein defined, and the Municipal Board may have regard to the restrictions on any land adjacent to such land, area or highway. Extent of approval

(17) Such approval does not become effective until the issue by the Municipal Board of its formal order thereof. When approval effective

(18) Notwithstanding any other provision of this section, any by-law passed under this section or a predecessor of this section or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941* may, with the approval of the Municipal Board, be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed. Extension or enlargement 1941, c. 35

(19) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section, or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, is refused or the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear Appeal

the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.

Copies of
decision

(20) Where an application has been made to the Municipal Board for the approval of a by-law passed under this section, a copy of the decision of the Municipal Board with respect to the application shall be supplied by the Municipal Board to the applicant and to each person who appeared in person or by counsel at the hearing of the application and who filed with the Municipal Board or the secretary of the Municipal Board a written request for notice of the decision. R.S.O. 1960, c. 296, s. 30 (12-20).

Building
by-laws

Size and
strength of
walls, etc.,
and produc-
tion of
plans

31.—(1) By-laws may be passed by the councils of municipalities:

1. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying to such approval without which permit no building or structure may be erected, altered or repaired, and for authorizing the refusal of a permit for any building or structure that if constructed would be contrary to the provisions of any by-law of the municipality or of a by-law of any other municipality, including a county and a metropolitan municipality, or the laws of Ontario or Canada in force in the municipality.
2. For requiring the interior side of the exterior walls and the ceilings and both sides of the partition walls of buildings, or any class of buildings, to be lathed and plastered or otherwise covered with adequate material.
3. For authorizing the municipal architect or building inspector to permit, in special cases that in his judgment warrant it, such deviation as he may deem proper from the by-laws regulating the erection of buildings, except by-laws passed under section 30 or a predecessor of that section.

Interior
walls and
ceilings

Deviations
from
building
by-laws

Limited
application
of paragraph

- (a) This paragraph applies only to municipalities where the municipal architect or building inspector, as the case may be, is a member or licensee of the Ontario Association of

*Building
By-laws*

Architects under *The Architects Act* or a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*. R.S.O. 1960, cc. 20, 309

4. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be deemed necessary for ascertaining such levels. Ascertaining levels of cellars, etc.
5. For fixing grade lines of streets; for providing that the levels of cellars and basements on such streets shall bear a relation, fixed in the by-law, to such lines; and for requiring that a ground or block plan of any proposed building be deposited with an officer named in the by-law, before the issue of a building permit for such building, showing the levels of the cellars and basements in relation to the grade lines fixed in the by-law. Establishing grades of streets and levels of basements
6. For regulating, controlling and inspecting, subject to *The Boilers and Pressure Vessels Act, 1962-63*, all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to. Regulation, etc., of heating plant and equipment 1962-63, c. 8
7. For regulating the removing or wrecking of buildings and structures and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom, and for the issuing of a permit for the removing, wrecking or partial removing or wrecking of buildings and structures without which no building or structure may be removed or wrecked or partially removed or wrecked, and for fixing and charging fees for such permit. Regulating removal and wrecking of buildings and structures
8. For regulating, subject to the provisions of *The Egress from Public Buildings Act, The Theatres Act* and *The Factory, Shop and Office Building Act*, Doors of public buildings R.S.O. 1960, cc. 116, 396, 130
 - (a) the size and number of doors, aisles, halls and stairs in and other means of egress from hospitals, schools, colleges, churches, theatres,

halls, or other buildings used as places of worship, or of public resort, or amusement, or for public meetings, and the street gates leading to them;

- (b) the construction and width of stairways in such buildings, and in factories, warehouses, hotels, boarding and lodging houses;
- (c) the materials of which and the manner in which stairs and stair-railings shall be constructed, and the strength of walls, beams and joists and their supports in all such buildings; and
- (d) for requiring the production of the plans of the buildings mentioned in this paragraph now erected or which it is proposed to erect, and for prohibiting the use or erection of them until the provisions of the by-law are complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

Obstruction
of halls,
aisles, etc.

9. For prohibiting and preventing the obstruction by persons or things of the halls, aisles, passage-ways, alleys or approaches in or leading to any such building during the occupation of it by a public assemblage.

Powers of
police
officers as
to seeing
that by-laws
enforced

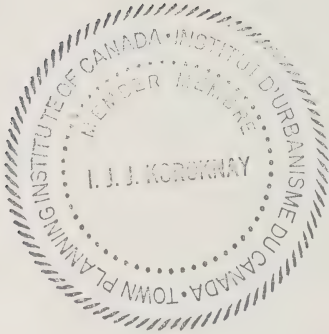
- (a) While any building mentioned in clause *a* of paragraph 8 in a city or town is occupied by a public assemblage, the chief constable or any constable of the city or town may enter it to see that the by-law is not being contravened, and may require the removal of any obstruction or of any person standing, sitting or otherwise occupying any hall, aisle, passage-way, alley or approach, except for passing to and fro.

Owner's
duty to
repair land
in front of
commercial
buildings

10. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line that is used by the public as part of the sidewalk on such street.

Compelling
provision
of fire
escapes

11. Subject to the provisions of any other Act requiring fire escapes, for compelling the owners and occupants of buildings more than two storeys in height, except private dwellings, to provide proper fire escapes therefor in such places, of such pattern and mode



of construction as may be deemed proper, and for prohibiting the occupation of any such buildings unless such fire escapes are provided.

12. For regulating the construction, alteration or repairs of buildings. Erection of buildings, etc.
13. For prohibiting the erection or placing, within defined areas, of buildings or additions to them without foundations and foundation walls or with external and party walls other than of brick, portland cement, concrete, steel, stone, tile, terracotta or other incombustible material or of one or more of such materials or other than partly of one or more of such materials and partly of other materials as the by-law may prescribe and also prohibiting roofing of other than incombustible material; provided, however, that such by-laws may allow, in defined areas, buildings for prescribed purposes to be erected or placed not exceeding a prescribed size or height having walls of other than such materials or partly of one or more thereof and partly of other materials as the by-law may provide, with roofing of such materials as the council may determine according to the intended use of such buildings, and such by-laws may prohibit the erection or placing of more than the prescribed number of such buildings on any one lot or parcel of land. Kind of walls
 - (a) "Incombustible material" as applied to roofing in this paragraph means the material prescribed by the by-law with reference to each defined area.
 - (b) For the purposes of this paragraph, any area or areas in the municipality may be defined by the use of maps attached to the by-law, and the information shown on such maps forms part of the by-law to the same extent as if included therein.
14. For regulating the repairing or alteration of roofs or the external walls of existing buildings within such areas, so that the buildings may be as nearly as practicable fire proof. Repairs to existing buildings
15. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law. Pulling down, etc., buildings illegally erected
16. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any build- Pulling down buildings in ruinous state

ing, fence, scaffolding or erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

Inspecting
and regu-
lating
electric
wires, etc.

17. For regulating and inspecting wires and other apparatus placed or used for the transmission of electricity for any purpose in or along any highway or on or in any building, and for requiring any such wire or other apparatus that is deemed unsafe or dangerous to be removed or repaired at the expense of the person to whom it belongs or who is using it.

Construction
of chimneys,
fireplaces,
etc.

18. For regulating the construction of chimneys, flues, fireplaces, stoves, ovens, boilers or other apparatus or things that may be dangerous in causing or promoting fire, and for removing at the expense of the owner any of them constructed in contravention of the by-law.

Construction
of chimneys

19. For regulating the construction as to dimensions and otherwise of chimneys.

Erection of
party walls

20. For regulating and enforcing the erection of party walls.

Construction
of cellars,
drains, etc.

21. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Control of
termites

- 21a. For requiring,

- (a) any building or structure or any class or classes thereof heretofore or hereafter erected or any additions thereto to be rendered resistant to infestation by termites and other wood-destroying insects;
- (b) the repair of any part of any building or structure or any class or classes thereof that has been damaged by termites or other wood-destroying insects;
- (c) the removal and destruction of all wooden poles, trees, stumps or other wooden or cellulose material that is not part of a building if they are certified by the building inspector or commissioner to be infested by termites or other wood-destroying insects.

21b. For providing for the payment by the municipality, ^{Cost of control of termites and repairs} not to exceed in any case \$250, of not more than one-half of the cost,

1. of repairing any damage done to any building or structure or any class or classes thereof by termites or other wood-destroying insects; and
2. of rendering resistant to infestation by termites or other wood-destroying insects any building or structure or any class or classes thereof that were erected before a by-law is passed under this paragraph,

and for providing for the making of loans to the owners of such buildings or structures to pay for the whole or any part of the cost of such repairs or of the rendering resistant to such infestation, less any amount paid by the municipality, on such terms and conditions as the council may prescribe.

- (a) The amount of any loan made under a by-law passed under this paragraph, together with interest at a rate not exceeding 5 per cent per annum, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.
- (b) A certificate of the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this paragraph, including the rate of interest thereon, together with a description sufficient to identify the land in respect of which the loan has been made, shall be registered in the proper registry or land titles office against the land upon proof by affidavit of the signature of the clerk, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate of the clerk showing such repayment shall be similarly registered, and thereupon the lands are freed from all liability with reference thereto.

22. For the purposes of any by-law passed under this ^{Building codes} section or a predecessor of this section, for adopting

with such changes as the council may consider necessary by including in the by-law in whole or in part the National Building Code of Canada and in whole or in part any code or standards adopted, made or sponsored by the Canadian Standards Association, the Canadian Government Specifications Board, the American Society for Testing Materials or any other such body and approved by the National Research Council (Canada).

Supervision
of erection
of public
buildings

R.S.O. 1960,
cc. 20, 309

Interpre-
tation

Certificate
of com-
pliance and
prohibiting
use of
buildings
not in
compliance
with by-laws

23. For requiring that public buildings to be erected, constructed or altered in the municipality be designed by and the specifications therefor be prescribed by and the erection, construction and alteration thereof be controlled and supervised by a member or licensee of the Ontario Association of Architects under *The Architects Act* or a civil engineer who is a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*.

(a) In this paragraph, "public buildings" means arenas, armouries, amusement park structures, bleachers, bowling alleys, churches, club buildings, community halls, court rooms, curling rinks, dance halls, exhibition buildings, grandstands, gymnasiums, libraries, lodge rooms, museums, passenger stations and depots, recreation piers, reviewing stands, schools, skating rinks, stadia, swimming pool buildings and structures, theatres and other buildings and structures that are to be used or offered for use as places of public assembly.

24. For requiring persons,

- (a) who have caused a building or structure to be erected, altered or repaired without having first obtained a permit so to do where such a permit is required; or
- (b) who having obtained a permit have caused a building or structure to be erected, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such buildings comply with the by-laws of the municipality if they do not so comply and in any case to obtain a certificate of compliance from the building inspector and for charging fees for such certificates and for prohibiting the use of such a

building or structure by such persons until a certificate of compliance has been obtained. R.S.O. 1960, c. 296, s. 31 (1); 1961-62, c. 104, s. 7; 1962-63, c. 105, s. 10, *amended*.

(2) A by-law passed by the council of a township under any paragraph of subsection 1 may be made applicable to the township or one or more defined areas thereof as set out in the by-law. R.S.O. 1960, c. 296, s. 31 (2).

Township
by-laws

32. Part XXI of *The Municipal Act* applies *mutatis mutandis* to by-laws passed under this Part. R.S.O. 1960, c. 296, s. 32.

Application
of R.S.O.
1960, c. 249,
Part XXI

PART IV

COMMITTEES OF ADJUSTMENT

*Committee of
Adjustment*

32a.—(1) If a municipality has passed a by-law under section 30 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality or part, composed of such persons, not less than three, as the council deems advisable.

Establish-
ment of
committees
of
adjustment

*Only if a municipality has got an official
plan, (Important amendment!) Can be...*

(2) In subsection 3, "employee" does not include a teacher employed by a board of education or school board. 1961-62, c. 104, s. 8, *part*.

Interpre-
tation

(3) A member of a committee of adjustment shall be a resident or ratepayer of the municipality, but in no event is a member of the council of the municipality or an employee of the municipality or of a local board thereof eligible for appointment. 1962-63, c. 105, s. 11 (1).

Qualification
of member

NOTE.—Subsection 3 above does not disqualify a person who was appointed to a committee of adjustment before April 26, 1963, so as to prevent him from completing the term of office for which he was appointed. See 1962-63, c. 105, s. 11 (3).

(4) Appointments to the committee shall be for a term of three years, except that on the first appointment the council shall designate members who shall hold office,

Term of
office

- (a) until the 1st day of January of the year following the date of appointment;
- (b) until the 1st day of January of the second year following the date of appointment; and
- (c) until the 1st day of January of the third year following the date of appointment,

respectively, so that as nearly as possible one-third of the members shall retire each year. 1961-62, c. 104, s. 8, *part*.

Idem

(5) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term. 1961-62, c. 104, s. 8, *part*; 1962-63, c. 105, s. 11 (2).

Quorum

(6) A majority of the members of the committee constitutes a quorum.

Vacancy not
to impair
powers

(7) Subject to subsection 6, a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

Chairman

(8) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member to act as chairman *pro tempore*.

Employees

(9) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is deemed expedient, within the limits of the moneys appropriated for the purpose.

Remunera-
tion

(10) The members of the committee shall be paid such compensation as the council may provide.

Filing of
documents,
etc.

(11) The secretary-treasurer shall keep on file in his office minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of *The Municipal Act* applies *mutatis mutandis* to such documents.

R.S.O. 1960,
c. 249

Rules of
procedure

(12) The committee shall adopt such rules of procedure as are approved by the Minister, and no committee shall hear or determine any matter unless such rules have heretofore been or are hereafter so adopted and approved, and such rules may be amended with the approval of the Minister.

Revision of
rules of
procedure

(13) The Minister may require a committee to amend or revise its rules of procedure and, if the committee fails to comply with such requirement within the time limited by the Minister, it is without jurisdiction to hear or determine any matter until its rules are amended or revised and approved by the Minister. 1961-62, c. 104, s. 8, *part*.

Powers of
committee,
general

32b.—(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that implements an official plan or is passed under section 30, or a predecessor of such section, or any

person authorized in writing by the owner, may, notwithstanding any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

(2) In addition to its powers under subsection 1, the com-^{special}mittee, upon any such application,

- (a) where any land, building or structure, on the day the by-law was passed, was used for a purpose prohibited by the by-law and such use has continued until the date of the application to the committee, may permit,
 - (i) the enlargement or extension of the building or structure, provided that the land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day the by-law was passed, and provided that no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or
 - (ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the land, building or structure continues to be used in the same manner and for the same purpose as is authorized by the decision of the committee;
- (b) where the land, building or structure adjoins any area in which the permitted uses differ from those permitted in the area in which it is situate, may permit the extension or enlargement, into the adjoining area, of the land, building or structure, to such an extent as, in the opinion of the committee, is in keeping with the general intent and purpose of the by-law and of the official plan, if any; or
- (c) where the uses of land, buildings or structures permitted in the by-law are defined in general terms,

may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

Time for
hearing

(3) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.

Notice of
hearing

(4) The committee, before hearing an application, shall give notice thereof in such manner and to such persons as the committee deems proper. 1961-62, c. 104, s. 8, *part*.

Tariff
of fees

(5) The committee may prescribe a tariff of fees payable in respect of applications made to it, which may vary according to the type of the application, but in no case shall the fee payable on any application be more than \$25. 1962-63, c. 105, s. 12 (1).

Hearing

(6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.

Oaths

(7) The chairman, or in his absence the acting chairman, may administer oaths.

Decision

(8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

Conditions
in decision

(9) Any authority or permission granted by the committee may be for such time and subject to such terms and conditions as the committee may deem advisable and as are set out in the decision. 1961-62, c. 104, s. 8, *part*.

Notice of
decision

(10) The secretary-treasurer shall send by registered mail one copy of the decision, certified by him, to the Minister, to the applicant and to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision, together with a notice of the last day for appealing to the Municipal Board. 1962-63, c. 105, s. 12 (2).

Additional
material

(11) The secretary-treasurer shall also send to the Minister, when he sends the notice under subsection 10, one copy of the following documents:

1. The application to the committee of adjustment, certified by the secretary-treasurer.

2. The notice of the hearing by the committee of adjustment and a list of the persons to whom the notice was sent, both certified by the secretary-treasurer.
3. The minutes of the hearing by the committee of adjustment, certified by the secretary-treasurer.
4. A list of persons to whom copies of the decision were sent under subsection 10, showing the date of sending, certified by the secretary-treasurer.
5. All relevant documents, including any maps or sketches showing the land, building or structure concerned. 1961-62, c. 104, s. 8, *part*; 1962-63, c. 105, s. 12 (3), *amended*.

(12) The applicant, the Minister or any other person who has an interest in the matter may appeal to the Municipal Board against the decision of the committee by sending notice of appeal by registered mail to the secretary of the Municipal Board and to the secretary-treasurer of the committee of adjustment, within fourteen days after the sending of the notice under subsection 10. Appeal

(13) If within such fourteen days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. Where no appeal

(14) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the Minister, the applicant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine. Hearing

(15) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application. Powers of Municipal Board

(16) The costs on the appeal are in the discretion of the Municipal Board. Costs

(17) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a copy thereof to the Minister and to the secretary-treasurer of the committee. Notice of decision

(18) The secretary-treasurer shall send to the applicant a copy of the order of the Municipal Board on the appeal and shall file a copy of the order with the clerk of the municipality. 1961-62, c. 104, s. 8, *part*. idem

PART V

GENERAL

Right to
restrain

33. In addition to any other remedy or penalty provided by law, any contravention of a by-law that implements an official plan and any contravention of section 15 may be restrained by action at the instance of the planning board of the planning area in which the contravention took place or any municipality within or partly within such planning area or any ratepayer of any such municipality, and any contravention of an order of the Minister made under section 27 may be restrained by action at the instance of the Minister or the municipality in which the contravention took place or any adjoining municipality or any ratepayer of any such municipality or adjoining municipality. R.S.O. 1960, c. 296, s. 33.

Reference
to Municipal
Board

*Municipal
Board*

34.—(1) When under this Act the approval or consent of the Minister is applied for, the Minister may, and upon application therefor shall, refer the matter to the Municipal Board in which case the approval or consent, as the case may be, of the Municipal Board has the same force and effect as if it were the approval or consent of the Minister.

Effect of
approval

(2) When under this Act the approval or consent of the Minister is given, the signature of the Minister or the seal of the Municipal Board, as the case may be, by which the approval or consent is evidenced is conclusive evidence that the provisions of this Act leading to such approval or consent have been complied with. R.S.O. 1960, c. 296, s. 34.

Conflict

35. In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. R.S.O. 1960, c. 296, s. 35.

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